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Attorney for Plaintiff
JOEL RICHARDSON

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOEL RICHARDSON,

Plaintiff,

vs.

TESLA, INC., dba TESLA MOTORS, INC.;
TESLA LEASE TRUST; TESLA FINANCE
LLC; and DOES 1-100, inclusive,

Defendants.

Case No. 3:24-cv-00209-RFL

**ATTORNEY BENJIMIN BREES's
RESPONSE TO OSC**

Judge: Hon. Rita F. Lin

Plaintiff's counsel, Benjamin M. Brees files this declaration in support of Order to Show Cause 1) why Plaintiff did not submit a joint case management statement, 2) why Plaintiff's counsel was absent from the case management conference, 3) why this case should not be dismissed for failure to prosecute.

I, Benjamin M. Brees declare as follows:

1. I filed this case in the San Diego Superior Court;
2. The Defendant's filed a motion to remand to the Federal District Court for the District of Southern California.
3. Then Tesla filed a motion to change venue to the Northern District of California;
4. I have never practiced in Federal District Court and needed to be admitted to the Northern District of California.

- 1 5. I read all the rules and regulations and learn how to file in the Northern District of
2 California and was admitted to the Northern District of California.
- 3 6. I prepared a draft case management statement and emailed it to Allison Que May 8,
4 2024. I was expecting them to add their insert and file it with the court.
- 5 7. I then received a notice from Allison Que that Tesla was seeking an extension of the
6 initial CMC and a request for an extension to respond to the complaint.
- 7 8. I then received an email that stated that the Court had vacated the case management
8 conference "and will reset it after it rules on Tesla's pending motion to dismiss the
9 related case. (I have attached a true and correct copy, as Exhibit A, of said email.)
- 10 9. I apologize to the Court because I was under the impression that the Case Management
11 from June 6, 2024, had been vacated and neither I nor my assistant, Joanna
12 Willoughby were aware that the Case Management was still on for hearing for June
13 6, 2024.
- 14 10. It was a calendar error on my part, and I apologize to the court for the failure to appear.
15 I ask this court not to dismiss this case in the interest of justice.
- 16 11. I had been on a trip to Boston and returned June 4, 2024. I checked my calendar, and
17 the June 6, 2024-case management conference was not in our calendar.
- 18 12. I have set up additional calendar systems so that this does not happen again.
- 19 13. I would like the court and defense counsel to have my cell phone so that I may be
20 called by this Court should the need arise in the future.
- 21 14. I will email Counsel Allison Que and the Court Clerk's to provide my cell phone
22 number. I understood that Counsel Que had my number as I believe we have spoken
23 on my cell phone in the past.
- 24 15. I understand Tesla has filed a motion for arbitration and I intend to oppose said motion
25 as being against the public policy of the State of California.
- 26 16. I will also file a motion to amend the complaint and to remand the case to the San
27 Diego Superior Court.
- 28 17. I have asked Tesla to agree to the amendment and have not received a response.

1 18. I again apologize to the court for not being present on the zoom call and assure this
2 court that I will monitor the calendar appropriately and not repeat this transgression.

3 I state the above to be true and correct under penalty of perjury under the federal rules of
4 the United States.

5 Respectfully submitted,

6
7 Dated: June 14, 2024



8 BENJIMIN M. BREES
9 Attorney for Plaintiff
10 JOEL RICHARDSON
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EXHIBIT A

Law Offices of Benjamin Michael Brees

From: Que, Allison <Allison.Que@wilmerhale.com>
Sent: Monday, May 13, 2024 11:26 AM
To: Joanna Willoughby; Law Offices of Benjamin Michael Brees; ben benbreeslaw.com
Cc: Marcus, David
Subject: RE: Richardson v. Tesla, Inc, et al., Case No. 3:24-cv-00209-RFL
Attachments: Activity in Case 3:24-cv-00209-RFL Richardson v. Tesla, Inc. et al

Counsel – As a matter of courtesy, we just want to let you know that the Court has vacated the case management conference and will reset it after it rules on Tesla's pending motion to dismiss in the related case. The ECF notification is attached.

Thanks,
Allison

From: Que, Allison
Sent: Friday, May 10, 2024 7:18 AM
To: Joanna Willoughby <joanna@benbreeslaw.com>; Law Offices of Benjamin Michael Brees <info@benbreeslaw.com>; ben benbreeslaw.com <ben@benbreeslaw.com>
Cc: Marcus, David <David.Marcus@wilmerhale.com>
Subject: RE: Richardson v. Tesla, Inc, et al., Case No. 3:24-cv-00209-RFL

Counsel,

Tesla intends to seek an extension of the initial CMC and relatedly, the deadline for the case management statement and the deadline to respond to the Complaint. The parties in the related, consolidated case have agreed in principle to reschedule the initial CMC to a date after the Court rules on Tesla's pending motion to dismiss in that case. Given the substantial similarity between this case and the consolidated case and that these two cases have been related, we think it'd be most efficient to extend the initial CMC in this case to the same date of the initial CMC in the consolidated case and adjust the other deadlines mentioned above accordingly. Please let us know if you agree by **EOD today**, and we can prepare a draft stipulation for your review; if we don't hear from you by then, we will file an administrative motion for the extension by May 13.

Thanks,
Allison

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| UNITED STATES DISTRICT COURT IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA | | FOR COURT USE ONLY |
| TITLE OF CASE (Abbreviated): JOEL RICHARDSON vs. TESLA | | |
| ATTORNEY(S) NAME AND ADDRESS: Law Offices of Benjimin Michael Brees 3033 5 th Avenue, Suite 201 San Diego, California 92103 Telephone: (619) 236-8355 | | |
| ATTORNEY(S) FOR: Plaintiff JOEL RICHARDSON | | CASE NUMBER: 3:24-cv-00209-RFL |

DECLARATION OF SERVICE

I, the undersigned, was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to the action; and I am employed in the County of San Diego, California, within which county the subject service occurred. My business address is 3033 5th Avenue, Suite 201, San Diego, California 92103. I am readily familiar with the ordinary business practices of my place of employment with regard to collection for mailing with the United States Postal Service; overnight express delivery, e-mailing and with serving documents via facsimile. I served an original and/or a true and correct copy of the following document(s):

ATTORNEY BENJIMIN BREES'S RESPONSE TO ORDER TO SHOW CAUSE

 X by placing a copy thereof in a separate envelope addressed to each such addressee respectively named as follows and sealed each envelope and placed them for collection and mailing to each addressee, as set forth below:

By ECF: Allison.que@wilmerhale.com

| <i>Counsel Name, Address & Telephone</i> | <i>Counsel for:</i> |
|---|-----------------------------|
| Allison Bingxue Que 2600 El Camino Real, Suite 400 Palo Alto, California 94306 Email: Allison.que@wilmerhale.com | Counsel for Defendant Tesla |

I declare under penalty of perjury under the laws of the State of California, and I certify that the foregoing is true and correct.

Executed on this June 14, 2024, in the County of San Diego, State of California.


 Joanna Willoughby